

The meeting was called to order at 10.50 a.m.

AGENDA ITEM 75: DRAFT CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (continued) (A/34/60 and Corr.1 and 2, A/34/357, A/34/542; A/C.3/34/14; A/C.3/34/L.73, L.75, L.76)

1. Mrs. SIBAL (India), speaking as the Chairman of the Working Group of the Whole on the Drafting of the Convention on the Elimination of Discrimination against Women, presented the Working Group's report (A/C.3/34/14) and said that three slight corrections should be made in the text. The first consisted of adding the word "former" before the words "article 6" in the table of contents. The same correction should be made on page 24. On page 12, in the penultimate paragraph, the words "on Civil and Political Rights" should be added after the words "International Covenant".

2. The text of the draft Convention could be found in annex I of the report. She pointed out that the title of the draft Convention had been changed to read "Draft Convention on the Elimination of All Forms of Discrimination against Women". The presentation of the draft Convention might seem initially somewhat chaotic because of the many sentences and phrases which were still in square brackets. That was particularly the case on page 2. The explanation was that the Working Group, since it had not been able to arrive at a consensus on those portions of the text, had decided to leave it to the Committee to take a decision on them. Furthermore, part V of the draft Convention, which dealt with the machinery for considering progress made in the implementation of the Convention, had been presented in a rather special way. The text was arranged in three columns across the page. The first column contained the original version, which proposed the establishment of an ad hoc group consisting of 10 to 15 persons. The second column contained the proposal submitted by the delegations of Sweden, Kenya and Yugoslavia; it was referred to, for convenience, as the "Swedish proposal". That proposal, which had used the Convention on the Elimination of all Forms of Racial Discrimination as its model, provided for a committee on the elimination of discrimination against women consisting initially of 18 and later of 23 experts. Finally, the third column contained the Ecuadorian proposal, which called for the establishment of an ad hoc working group. Each of the proposals had been worked out in all its details, including their financial implications, and was thus complete. The Committee needed only to decide between the three proposals by putting them to a vote.

3. The numbering of the articles of the draft Convention stopped at article 16. The later articles could not be numbered until the Committee had decided on part V of the draft Convention. Also, the article designated "article X" on page 13 of the text was an unnumbered article. The article would be numbered only when the Committee had decided on the body to be established to consider the progress made in the implementation of the Convention. At that time, the word "body" in square brackets would be replaced by the words "ad hoc group", "committee" or "ad hoc working group", as appropriate.

4. The Working Group had spared no effort to present a truly exhaustive draft Convention. The draft Convention had been studied down to the smallest detail.

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(Mrs. Sibal, India)

A style committee, chaired by the representative of Canada and consisting of the delegations of China, the USSR, the United Kingdom, France, the Syrian Arab Republic and Spain, had carefully checked the wording of the text to ensure its complete accuracy. She appealed to the members of the Committee to adopt the draft Convention at the current session so that it could be submitted to the World Conference of the United Nations Decade for Women to be held in July 1980. She welcomed the Chairman's decision not to allow debate on the draft Convention itself or on the amendments. The discussion stage had passed. She therefore suggested that the Committee should put the amendments and the phrases in square brackets to the vote.

5. The CHAIRMAN thanked the representative of India for her considerable efforts to speed up the work of the Working Group. He also congratulated the Working Group itself and its Rapporteur, the representative of the Bahamas.

6. He stressed that there would be no discussion of the draft Convention, which the Committee had been studying since the thirty-second session. Representatives would therefore be permitted to make comments only on the amendments to the draft Convention in documents A/C.3/34/L.73, L.76 and L.77 and on the parts of the text in square brackets.

7. Mrs. WARZAZI (Morocco), introducing the amendments in document A/C.3/34/L.73, quote a hadith, a tale in the Islamic tradition, in which the messenger of God stated that of all the members of the family the mother deserved the greatest regard. That tale rightly showed that the family was the foundation of society and that within it the mother had a privileged role. Therefore, the right which mothers had with regard to their children, particularly in the field of education, could not be sacrificed in the name of equality of the sexes. That right should never be handed over to extremist feminists who rejected motherhood. She welcomed the fact that Mrs. Thatcher, the Head of the United Kingdom Government, had stated that the finest profession for a mother was to stay at home and take care of her children.

8. The proposed amendments to the thirteenth preambular paragraph, to article 5 and to article 16, subparagraph 1 (d), thus sought to place the draft Convention in a realistic framework while still bearing in mind the interests of women, their children and society. In that connexion, she observed that the recent measures adopted by the French Government to encourage mothers through the provision of special grants, to remain at home showed that every nation needed the family.

9. With regard to the amendment to article 2, subparagraph (f), which consisted in adding the words "in their view" after the words "customs and practices which" she observed that Morocco was a Moslem State. Article 2 required each State party to modify or abolish existing laws which tended to discriminate against women. It was unthinkable, however, that a non-Moslem could judge laws about which he was ignorant. The legal situation of married Moslem women was governed by the Koran and, for that very reason, was preferable in many respects to that of European women. In that connexion, the French sociologist Gustave Lebon, in a book entitled La civilisation des Arabes, had stated that it was from the Arabs that the Europeans had borrowed, along with the laws of chivalry, the gallant respect for women which those laws required, and that Islam had elevated the status of women.

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(Mrs. Warzazi, Morocco)

10. She also presented two oral amendments which were not in document A/C.3/34/L.73. Firstly, in article 6, the word "prostitution" should be added in the second line after the words "suppress all forms of". The article would thus read: "States Parties shall take all appropriate measures, including legislation, to suppress all forms of prostitution, traffic in women and exploitation of prostitution of women." Secondly, in paragraph 2 of article 9 the word "women" should be replaced by the words "their women nationals".

11. If her delegation sought to amend article 16, subparagraph 1 (c), it was because, in its existing form, it failed to take into account a fact which was a matter of common sense, namely, that men and women, in order to be truly equal, did not need to be treated as being the same, which would be contrary to nature. There could be equality only within the context of their differences. The rights of women and men could not be the same in marriage, because their roles in the family unit were not the same. Those roles were not "traditional" but had arisen in the deep consciousness of the human race where the masculine image of the father and the feminine image of the mother were clearly stamped and were complementary. That clear distinction and that complementarity were necessary for the psychic and moral balance of children.

12. The misunderstanding had arisen from the fact that concentration on the need to eliminate discrimination from which women still suffered in all societies had ignored two factors: firstly, that the basic unit of society was primarily the family and not the individual, and, secondly, that legislators were not able to do everything. To speak of simply making the responsibilities of the two spouses during marriage and at its dissolution identical, was to lose sight of the fact that public international law - which was the framework of the future Convention - was able to deal with private law and civil law only to the extent that it limited itself to the largest common denominator among the various legal systems of the world, each of which merited equal respect. It also failed to take into account that relationships and conflicts between spouses were not within the purview of contract law; what was involved was not an ordinary commercial contract but the basic social contract.

13. A civilized society would guarantee the equality of rights and responsibilities of spouses during marriage and at its dissolution only to the extent that that did not prejudice the need to protect the family as an institution on whose continued existence the cohesion of all social fibres depended.

14. The CHAIRMAN informed the representative of Morocco that she had exceeded the fixed time-limit.

15. Mr. WHOMERSLEY (United Kingdom) introduced the amendment proposed by France and the United Kingdom (A/C.3/34/L.76), which would replace the preamble by an entirely new text.

16. His delegation had legal and practical objections to the preamble to the draft Convention as it appeared in document A/C.3/34/L.76, annex I. The existing wording was inappropriate and unprecedented for a legal instrument such as a convention. The draft Convention would be legally binding and would serve as a precedent for many years to come; it therefore must be generally acceptable to all States that might wish to become parties to it.

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(Mr. Whomersley, United Kingdom)

17. Moreover, the preamble was much too long, consisting of 15 paragraphs, whereas the International Covenant on Human Rights, for example, had only five. In addition, some of those paragraphs (the ninth, tenth and eleventh) were unquestionably politically controversial and in some cases had little, if any, relevance to the draft Convention.

18. His delegation and that of France had sought to condense the essence of the existing preamble into fewer paragraphs. The first preambular paragraph in their amendment amalgamated the first five preambular paragraphs in document A/C.3/34/L.14, annex I. The second was taken from the sixth preambular paragraph and the third brought together in a concise and politically less contentious way the main points made in the seventh to twelfth preambular paragraphs. The fourth combined in more precise terms the thirteenth and fourteenth preambular paragraphs, and the final paragraph was identical to the fifteenth preambular paragraph proposed by the Working Group. No change of substance had been made, and his delegation's main concern was that in a legal instrument of that kind the preamble should be legally correct.

19. The sponsors wished to hear the views of other delegations on the subject and in the light of those views would decide whether to press their proposal.

20. Mr. WANG JIECHEN (China) proposed an amendment (A/C.3/34/L.77) aimed at making the draft Convention as universal as possible. Because the tenth preambular paragraph referred to political matters, it should be as complete as possible. In any case, the elements that he sought to include were contained in other international conventions.

21. Miss RICHTER (Argentina) proposed that paragraph 2 of article 9, which she felt was legally incomplete, should be deleted. She also proposed that the word "traditional" in the fourteenth preambular paragraph shall be replaced by the word "stereotyped". She requested a separate vote on article 23 of the draft Convention.

22. Mr. HOLLWAY (Australia) proposed that the introduction of amendments should be limited to a few minutes. He likewise suggested that all newly proposed texts replacing whole articles, such as the amendment of the United Kingdom and French delegations (A/C.3/34/L.76), should be considered as a whole. Also, it would be useful to consider the articles of the draft Convention before considering the preamble; it was customary to consider the preamble as a "cap" to the operative portion, and it was difficult to know what it should include as long as the final content of the draft Convention had not been determined. In addition, the preamble might create difficulties because of the large number of amendments that had been proposed.

23. The CHAIRMAN said that he intended to set a time-limit of five minutes for the introduction of amendments. Referring to the new preamble proposed by France and the United Kingdom and the three proposals concerning the machinery to be used to consider the progress made in the implementation of the draft Convention (annex I, part V), with the exception, of course, of the Bangladesh proposal, which would be considered before that of Sweden, he confirmed that amendments forming a whole would be considered as a single text.

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(The Chairman)

24. With regard to the third proposal by the representative of Australia, he said that it was for the Committee to decide on such a change in the order in which the component parts of the draft would be considered, and the change must be formally proposed.

25. Replying to a question by the representative of Ethiopia, he explained that he had seen no point in requesting that the oral amendments proposed by the Moroccan delegation and the Argentine delegation should be issued and circulated, because they were very simple and short. In any case, when the amendments were put to the vote he would read them out so that there would be no confusion.

26. Miss ZOURABICHVILI (France) said that she shared the view of the Australian delegation and formally proposed that the Committee should start by considering the substantive articles of the draft Convention before taking a decision on the preamble.

27. Mr. EDIS (United Kingdom) supported the proposal of the representatives of Australia and France.

28. Mrs. WARZAZI (Morocco) said the consideration of a draft convention was entirely different from that of a draft resolution and that each delegation should have sufficient time to express its point of view.

29. Reverting to article 16, she said that the judiciary was empowered to decide on the scope of the equality of the rights and responsibilities of spouses when dissolving a marriage, whether the fault was that of one or both of the spouses, with all that that entailed in regard to custody of children and alimony. It was interesting to note that in almost every legal system alimony was paid by the man, and that one of the major reasons for the resistance of women to the undifferentiated equalization of the rights of men and women was the concern to preserve that privilege of exemption which had been accorded them.

30. There was a danger that, in the name of dedication to the principle of equality, the privileges accorded to women under the natural law by virtue of their femininity might be lost. Women must not renounce the legal privileges accorded them by national law with respect to matrimony and financial independence. Islamic law allowed women the full enjoyment of their property and the right to manage and dispose of it as they saw fit, without having to obtain their husbands' consent and without such property constituting community property by virtue of marriage.

31. For the same reasons that caused it to reject article 16 (h), her delegation could not support the wording of article 16 (c), in which the idea not of equality but of identity without differentiation between the roles of spouses in the family unit was a mockery of the desired goal of the social advancement of women. The purpose of her delegation's amendment to that paragraph (A/C.3/34/L.73) was thus to give real substance to a provision which embodied all the goals and objectives of the draft Convention, goals and objectives which consisted not in undermining with reprehensible capriciousness the foundations of the basic social unit, but in guaranteeing to all members of the human race the most elementary dignity, that of being fully oneself without having to suffer for it.

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32. Mrs. SEMIICHI (Algeria) proposed that in the eleventh preambular paragraph the words "and the right to self-determination" should be replaced by "the right to self-determination and the realization of the right of peoples to self-determination and independence". A parallel must be drawn between the situation in independent countries which sought to preserve their national sovereignty and the right of peoples who had not yet acceded to independence.
33. Mrs. SIBAL (India) proposed a subamendment to the Algerian amendment which would include, after the word "peoples", the words "under alien and colonial domination".
34. Mr. AL-HUSSAMY (Syrian Arab Republic) said that the preamble to the draft Convention had been the subject of long consultations among members of the Working Group, and it was hardly appropriate to propose an entirely new wording; his delegation therefore could not support the amendment proposed by the United Kingdom (A/C.3/34/L.76).
35. His delegation endorsed in principle the amendments proposed by the Moroccan delegation, but his country's legislation did not permit it to support them. With regard to the amendment proposed by China (A/C.3/34/L.77) he proposed that, after the words "aggression, interference", the words "in the internal affairs of States" should be included. Concerning the oral amendments submitted by the representative of Argentina, he supported the proposal to delete paragraph 2 of article 9 and observed that, in accordance with the legislation of his country, the nationality of a child was automatically that of the father. With regard to the three texts proposed for part V of the draft Convention, he felt that the Swedish proposal would provide the best basis for consideration.
36. Mr. TARASYUK (Ukrainian Soviet Socialist Republic) said that the Committee should respect the procedure adopted by the Working Group and consider the preamble to the draft Convention before the articles. He therefore did not support the proposal of the representatives of Australia and France.
37. With regard to the amendment proposed by the United Kingdom (A/C.3/34/L.76), he said that his delegation had been a member of the Working Group and that the elaboration of the text of the preamble had taken several years. The text was a compromise among differing points of view, and as such it should be adopted.
38. Mr. NORDENFELT (Sweden) announced that the delegations of Yugoslavia, Kenya and Sweden had no objections to subparagraph (h) of the Bangladesh amendment to the so-called Swedish proposal (A/C.3/34/L.14, annex I, p. 13). Because of that amendment, his delegation was prepared to delete the first sentence of paragraph 3 (c) (p. 14), which read: "The secretariat of the Committee shall be provided by the Secretary-General of the United Nations;". His delegation wished to request that the Swedish proposal should be considered before that of Ecuador during the voting on the draft Convention.
39. Mr. CARIAS (Honduras) said that he had been concerned over the financial implications of the Bangladesh amendment, but had received clarification from the Swedish delegation regarding the financing of the Committee which would be

(Mr. Carias, Honduras)

established under the provisions of the Swedish proposal. He could therefore support that proposal, as amended by the delegation of Bangladesh.

40. Mr. CARDWELL (United States of America) said that the adoption of the Bangladesh amendment would create problems for his delegation, which was not entirely satisfied with the contents of that amendment and might therefore be forced to change its position. He shared the view of delegations that had stressed the qualitative difference between a draft convention and a draft resolution. He therefore hoped that the consideration of the draft Convention would not be delayed by the submission of a succession of amendments and subamendments. He supported the United Kingdom's amendment (A/C.3/34/L.76), which would prevent the preamble from becoming a jumble of various ideas and points of view.

41. Mr. ZELIVER-GONCALVES (Brazil) said that as the Bangladesh amendment had been accepted, he might change his position. His delegation, which might propose amendments to the Swedish proposal, wished to know if, once the voting had begun, the Committee would have to decide on all the articles of the draft Convention or if delegations could make statements during the process of voting.

42. The CHAIRMAN, noting that the delegations of the United States and Brazil had difficulties in accepting the Bangladesh amendment, said that the Committee would vote first on subparagraph (h) proposed by Bangladesh (A/C.3/34/14, annex I, p. 13) before voting on the Swedish proposal as a whole (A/C.3/34/14, annex I, pp. 10-14). Once the voting had begun, delegations would not be able to make statements on the amendments; he therefore invited delegations wishing to do so to make statements in good time. Once the Committee had taken a decision on the various amendments to the draft Convention, it would have to take a decision on the text as a whole.

43. Mrs. SHAHANI (Philippines) said that she fully supported the Swedish proposal, for the Committee established to consider the progress made in the implementation of the Convention should be composed of eminent and competent experts in the field.

44. The amendment proposed by France and the United Kingdom (A/C.3/34/L.76) called into question the work done over three years by the Working Group and was therefore unacceptable.

45. Mr. O'DONOVAN (Ireland) noting that the procedures suggested by the Chairman and by the delegations of Australia and France were logical, said he would like to know what procedure had been followed in the adoption of other conventions.

46. Ms. MARKUS (Libyan Arab Jamahiriya) supported without reservation the Moroccan amendments issued as document A/C.3/34/L.73 and those submitted orally and fully endorsed the remarks of the representative of Morocco regarding Islamic legal practice. She also supported the Argentine amendments, particularly that calling for the deletion of paragraph 2 of article 9 of the draft Convention.

47. Her delegation endorsed the Swedish proposal on the procedure for considering the progress made in the implementation of the Convention.

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(Ms. Markus, Libyan Arab Jamahiriya)

48. The amendment proposed by France and the United Kingdom had been introduced much too late and should have been submitted to the Working Group; she hoped that it would be withdrawn.
49. Ms. COP (Yugoslavia) said that the preamble was based on principles and ideas that had been discussed at great length since the Mexico Conference of 1975 and that the amendment proposed by France and the United Kingdom was unacceptable.
50. The Moroccan amendments relating in particular to article 2 (f) and article 16 were contrary to the principle of the equality of rights of men and women.
51. Mr. HOLLWAY (Australia) said that his delegation would be prepared to withdraw its proposal if the procedure that the Chairman intended to follow was to invite the Committee to vote once delegations had expressed their views on all the amendments and alternative versions which had been proposed with respect to the draft Convention.
52. The CHAIRMAN confirmed that that was the procedure he would follow.
53. Mrs. HOUNGAVOU (Benin) said that she supported the Swedish proposal and the alternative version proposed by Bangladesh regarding part V of the draft Convention. She was also in favour of the Algerian amendment, but could not support the one proposed by France and the United Kingdom (A/C.3/34/L.76), which not only called into question the work done over three years but failed to take account of the views expressed by a large number of countries.
54. Her delegation endorsed the Syrian subamendment to the Chinese amendment (A/C.3/34/L.77).
55. It would be difficult for Benin, which was not an Islamic country, to accept all the amendments proposed by the Moroccan delegation.
56. Miss de la GARZA (Mexico), noting that the drafting of the draft Convention on the Elimination of Discrimination against Women had been completed scarcely a week earlier, said that she thought it would be preferable to defer its consideration until the thirty-fifth session.
57. The CHAIRMAN said that the Committee must complete its consideration of the draft Convention during the current session unless it had before it a formal proposal to defer its consideration to the following session.

The meeting rose at 1.10 p.m.